

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

YOUSIF H. HALLOUM,

Appellant,

vs.

WELL FARGO BANK, N.A., *et al.*,

Appellees.

Case No.: 2:18-cv-01555-GMN

ORDER

Appeal from the United States Bankruptcy
Court for the District of Nevada
Bk No.: 16-16815-BTB

Pending before the Court is the Motion for Reconsideration, (ECF No. 55), filed by Appellant Yousif H. Halloum (“Appellant”). Appellee Wells Fargo, N.A. (“Wells Fargo”) filed a Response, (ECF No. 56), and Appellant filed a Reply, (ECF No. 58). Also pending before the Court are Appellant’s Motion to Show Cause, (ECF No. 60), Emergency Motion to Stop Foreclosure, (ECF No. 61), and Motion for Temporary Restraining Order and Permanent Injunction, (ECF Nos. 65, 66). Wells Fargo did not respond to these motions. For the reasons discussed below, the Court **DENIES** Appellant’s Motions.

I. BACKGROUND

Appellant filed the underlying voluntary Chapter 11 petition in the United States Bankruptcy Court for the District of Nevada (the “Bankruptcy Court”) seeking relief with respect to real property in California. (*In re Halloum*, Case No. 16-16815-BTB (Bankr. D. Nev. Dec. 29, 2016)); (*See Op. Br.* at 1–2). While bankruptcy proceedings were ongoing, the Bankruptcy Court granted Wells Fargo’s motion for relief from an automatic stay. (*See Hr’g Tr.* 4:16–5:8, *In re Halloum*, ECF No. 62). The Bankruptcy Court found that Appellant failed to oppose the motion and Wells Fargo successfully demonstrated good cause for relief from the

1 stay. (*Id.*). Appellant subsequently moved to substitute himself in place of his counsel, which
2 the bankruptcy court granted. (*See Order, In re Halloum*, ECF No. 75).

3 Appearing pro se, Appellant filed a Motion with the Bankruptcy Court requesting
4 reconsideration of its order lifting the automatic stay. Appellant contended that his prior
5 counsel's negligence was to blame for the adverse ruling, and that an automatic stay should
6 remain in effect. (*See Mot. to Recons., In re Halloum*, ECF No. 104). Appellant also filed a
7 Petition to Permit the Tardy Filing, requesting permission to file a tardy disclosure statement,
8 plan of organization, and appraisal. (*See Mot., In re Halloum*, ECF No. 77). Following a
9 hearing, the Bankruptcy Court denied both the Motion for Reconsideration and the Petition to
10 Permit Tardy Filing. With respect to the Motion for Reconsideration, the Bankruptcy Court
11 noted that Appellant's motion focused solely on his prior counsel's lack of diligence. (*See Hr'g*
12 *Tr. 8:12–9:6, In re Halloum*, ECF No. 97). Because the motion failed to articulate any error in
13 the court's determination that Wells Fargo was entitled to relief on the merits, the Bankruptcy
14 Court found reconsideration unwarranted. (*Id. 8:12–9:6*). As to the Petition to Permit Tardy
15 Filing, the Bankruptcy Court stated that Appellant was under the misapprehension that he
16 missed a deadline to file a disclosure statement, plan of reorganization, and appraisal. (*Id. 7:12–*
17 *8:5*). Concluding that nothing precluded Appellant from meeting the yet-to-be-expired
18 deadline, the Bankruptcy Court denied Appellant's Petition to Permit Tardy Filing. (*Id. 8:6–*
19 *11*).

20 On August 16, 2018, Appellant filed a Notice of Appeal in which he elected to have this
21 Court, rather than the Ninth Circuit Bankruptcy Appellate Panel, hear the appeal. (*See Notice of*
22 *Appeal at 2–3, ECF No. 1*). The Notice of Appeal identifies the Bankruptcy Court's order
23 denying Appellant's Petition to Permit Tardy Filing as the subject of this appeal. (*Id.*).

24 Following this Court's Order setting forth an appellate briefing schedule, (ECF No. 5),
25 Appellant moved this Court to transfer venue, (ECF No. 7), which the Court denied upon

1 finding it was procedurally improper and premised upon an inapplicable legal standard. (*See*
2 Order 2:19–3:7, ECF No. 15). Prior to this Court’s denial, Appellant moved the Bankruptcy
3 Court to transfer venue, which the Bankruptcy Court denied following a hearing. (*See In re*
4 *Halloum*, ECF Nos. 132, 142). Appellant appealed that ruling, which is before the Honorable
5 Judge Andrew P. Gordon in Case No. 2:19-cv-00037.

6 On September 5, 2019, the Court affirmed the Bankruptcy Court’s Order denying
7 Appellant’s Petition to Permit Tardy Filing. (Order, ECF No. 51). Twelve days later, Petitioner
8 filed the instant Motion for Reconsideration, (ECF No. 55). Thereafter, Petitioner filed several
9 motions concerning an impending foreclosure on his real property located in Nevada. (Mot.
10 Temporary Restraining Order (“TRO”), ECF Nos. 65, 66).

11 **II. DISCUSSION**

12 The below discussion first addresses Appellant’s Motion for Reconsideration, then
13 Appellant’s motions to enjoin a foreclosure.

14 **A. Motion for Reconsideration**

15 Appellant’s argument for reconsideration again focuses on reviewing the Bankruptcy
16 Court’s denial of his motion to transfer venue and request to allow late filings of a “Disclosure
17 Statement, Plan of Reorganization, and Appraisal” based on his prior counsel’s “excusable
18 neglect.” (Mot. Reconsider 3:14–24, 5:3–10, 6:18–7:13). Appellant also appears to seek review
19 of the Bankruptcy Court’s termination of an automatic stay. (*Id.* 3:14–14, 4:25–5:2). He
20 contends that, because his prior counsel failed to timely file reorganization documents, the
21 Bankruptcy Court improperly lifted an automatic stay covering Appellant’s property in
22 California. (*Id.*).

23 The Court finds no reason to reconsider its Order dismissing this appeal. Appellant’s
24 arguments regarding transfer of venue relate to matters outside the Court’s appellate
25 jurisdiction in *this* matter because, as previously explained, these venue issues were pending

1 before Judge Gordon in a separate case. To the extent Petitioner seeks review of the
2 Bankruptcy Court lifting an “automatic stay” on the Appellant’s property located in California,
3 that issue was not raised in Petitioner’s Statement of Issues in bringing this appeal. (*See*
4 Statement of Issues on Appeal 2:9–23, ECF No. 4-1) (exclusively addressing the filing of
5 proofs of claim and a “Disclosure Statement, Plan of Reorganization, and the Appraisal”
6 because of “excusable neglect” based on actions from prior counsel); (Not. Appeal at 3, ECF
7 No. 1). Further, the Bankruptcy Court explained in its ruling that it lifted the automatic stay for
8 reasons apart from any delay by Appellant’s counsel and apart from Appellant’s
9 misapprehension that he missed a deadline to file a disclosure statement, plan of reorganization,
10 and appraisal. (*See See* Hr’g Tr. 4:1–5:14, *In re Halloum*, ECF No. 62); (Hr’g Tr. 8:12–9:6, *In*
11 *re Halloum*, ECF No. 97).¹ Thus, issues with lifting an automatic stay are outside the scope of
12 appellate review here concerning Appellant’s Petition to Permit Tardy Filing.² *Cf. Padgett v.*
13 *Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (explaining that an appellate court “will not
14 ordinarily consider matters on appeal that are not specifically and distinctly raised and argued
15 in appellant’s opening brief.”)

16 **B. Motions to Enjoin Foreclosure**

17 28 U.S.C. § 158 vests district courts with appellate jurisdiction over three categories of
18 bankruptcy court orders: (1) “final judgments, orders, and decrees”; (2) “interlocutory orders
19 and decrees issued under section 1121(d) of title 11 increasing or reducing the time periods
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21 ¹ Appellant’s reference to the automatic stay in his Opening Brief arises in the context of arguments challenging
22 the Bankruptcy Court’s decisions about deadlines to file documents and denial of the request to transfer venue.
23 (Mot. Reconsideration 3:9–24, 6:18–7:13, ECF No. 55) (presenting arguments about an order denying
24 Appellant’s request to “reinstate the Stay,” and concluding that “[f]or the reasons stated above the case should be
transferred to California.”). Even if Appellant properly raised the issue of lifting an automatic stay covering his
property in California, Appellant does not provide reason in his Opening Brief to show why the Bankruptcy
Court’s ruling was incorrect on its merits.

25 ² Also outside the scope of review here is Appellant’s challenge to the Bankruptcy Court’s jurisdiction over a
complaint pending before another District Court in San Francisco. (*See* Motion to Show Cause 3:7–5:27, ECF
No. 60). The Court accordingly denies Appellant’s Motion to Show Cause.

1 referred to in section 1121 of such title”; and (3) other interlocutory orders and decrees “with
2 leave of the court.” 28 U.S.C. § 158(a)(1)–(3).

3 In Appellant’s recent motions filed after the Court dismissed this appeal, Appellant
4 moves for preliminary and permanent injunctive relief to enjoin a foreclosure on real property
5 located at 2428 Devotion Ridge Dr., Henderson, Nevada. (Mot. Preliminary Inj. at 1, ECF No.
6 66). Appellant claims that the party proceeding with the foreclosure, Caliber Home Loans,
7 failed to comply with a loan modification agreement and failed to apply Appellant’s payments
8 to a loan. (*Id.* 2:19–10:28). Appellant appears to state that the Bankruptcy Court permitted the
9 foreclosure process to continue in a September 17, 2019 hearing, where the Bankruptcy Court
10 discussed a “Motion for Relief from Automatic Stay.” (*Id.* 2:10–4:12).

11 Appellant’s instant request for injunctive relief was neither presented to the Bankruptcy
12 Court before this appeal on August 17, 2018, nor raised in Appellant’s May 16, 2019 Opening
13 Brief. (Op. Br. 12:6–16, ECF No. 16) (requesting injunctive relief for a “California house”).
14 Consequently, in this appellate posture, the Court declines to consider the enjoinder of on-
15 going foreclosure proceedings with Appellant’s Nevada property.³ *Cf. Padgett*, 587 F.3d at 985
16 n.2; *see* Fed. R. Bankr. P. 8002(a)(1) (“[A] notice of appeal must be filed with the bankruptcy
17 clerk within 14 days after entry of the judgment, order, or decree being appealed.”). Moreover,
18 the Court’s prior Order outlined the scope of this appeal as restricted to the denial of
19 Appellant’s Petition to Permit Tardy Filing. (Order 4:24–25 n.2, 5:8–18, ECF No. 51) (stating
20 that the issue of venue-transfer was presently on appeal before Judge Gordon in Case No. 2:19-
21 cv-00037-APG). The Court’s instant denial of reconsideration on its previous Order sustains

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24 ³ In the Opening Brief, (ECF No. 16), Appellant raised concerns of a foreclosure in California; but Appellant
25 made clear that “there is NO foreclosing [sic] pending on NEVADA property (HOUSE)” That clarification
demonstrates the distinct foreclosure issues raised in Appellant’s recent motions concerning foreclosure
proceedings “on the Debtor property in Nevada,” as opposed to issues handled by the Bankruptcy Court. (Em.
Mot. TRO 1:13–16).

1 this appeal's limited scope.⁴ Consequently, Appellant's motions to enjoin a foreclosure on
2 Nevada property are denied because they are outside this specific appeal before the Court.⁵

3 **III. CONCLUSION**

4 **IT IS HEREBY ORDERED** that Appellant's Motion for Reconsideration, (ECF No.
5 55), is **DENIED**.


6 **IT IS FURTHER ORDERED** that Appellant's Motion to Show Cause, (ECF No. 60),
7 is **DENIED**.

8 **IT IS FURTHER ORDERED** that Appellant's Emergency Motion to Stop Foreclosure,
9 (ECF No. 61), is **DENIED**.

10 **IT IS FURTHER ORDERED** that Appellant's Motion to Refile Exhibits, (ECF No.
11 64), is **DENIED**.

12 **IT IS FURTHER ORDERED** that Appellant's Motion for Temporary Restraining
13 Order and Permanent Injunction, (ECF Nos. 65, 66), is **DENIED**.

14 **DATED** this 8 day of April, 2020.

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17 _____
18 Gloria M. Navarro, District Judge
19 United States District Court
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23 ⁴ Also pending before the Court is Appellant's Motion to Refile Exhibits, (ECF No. 64). Because the Court
24 reaffirms its prior dismissal of this appeal, refileing exhibits will not assist the Court. Appellant's Motion to
25 Refile Exhibits is, therefore, denied.

⁵ Appellant states that he previously brought the foreclosure issue to the Court's attention in case 2:19-cv-00037.
That case was pending before Judge Gordon, and it is entirely separate from this one. The Court's current Order
should not be construed as impacting the proceedings overseen by Judge Gordon. Similarly, the Court expresses
no opinion about the scope of the bankruptcy appeal in 2:19-cv-00037-APG.